

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

HAYWARD INDUSTRIES, INC.,

Plaintiff

v.

BLUEWORKS CORPORATION,
BLUEWORKS INNOVATION
CORPORATION, NINGBO C.F.
ELECTRONIC TECH CO., LTD; NINGBO
YISHANG IMPORT AND EXPORT CO., LTD.

Civil Action No. 3:20-CV-710 -MOC-SCR

Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF BLUEWORKS CORPORATION'S
MOTION FOR EXPEDITED BRIEFING SCHEDULE ON EMERGENCY MOTION FOR
CLARIFICATION OF CONTEMPT ORDER [DE 588] ENTERED MARCH 19, 2025**

Blueworks Corporation (the "Debtor"), by and through the undersigned counsel, hereby files the following Memorandum of Law in Support of Blueworks Corporation's Motion for Expedited Briefing. The Limited Powers Chapter 11 Trustee supports the relief requested.

PRELIMINARY STATEMENT

As noted by the Bankruptcy Court for the Western District of North Carolina, the relief sought in the Debtor's *Emergency Motion for Clarification of Contempt Order [DE 588]* Entered March 19, 2025 (the "Motion to Clarify"), "To the extent the Debtor files a motion seeking clarification of the Contempt Order, this court respectfully urges the District Court to consider such motion as soon as reasonably possible in light of the apparent impact the Contempt Order has

on the Debtor’s ability to continue doing business.” *Order Denying Debtor’s Emergency Interim Motion to Enforce the Automatic Stay* [Docket No. 309].¹

The Debtor respectfully requests that this Court expedite the briefing schedule so that it may quickly receive certainty as to whether it can continue operating and prosecuting its bankruptcy case in an effort to address the Judgment [DE 448] or whether the Contempt Order—ass Hayward Industries, Inc., now argues—is a *de facto* sales and import ban against the Debtor, forcing it into liquidation and ending its going-concern operations.

BACKGROUND

On March 3, 2025, the Court held a show cause hearing (the “Show Cause Hearing”) relating to the Debtor’s non-debtor codefendant Ningbo C.F. Electronic Tech. Co., Ltd.’s (“NBCF”) and Richard Chen’s (collectively, the “Non-Debtor Defendants”) violations of a temporary restraining order entered by the District Court roughly one year prior along with other court orders. Following the Show Cause Hearing, the Court entered an Order dated March 19, 2025, barring the “Ningbo Parties” from importing or selling any product in the United States (the “Contempt Order”).

On or about March 29, 2025, the Debtor received notice that Amazon.com, Inc. (“Amazon”), had removed all of its product listings from its platform. During the next few days, Debtor’s counsel was informed by counsel for Amazon that Hayward Industries, Inc. (“Hayward”) had served Amazon a copy of the Contempt Order, resulting in Amazon’s delisting of Debtor’s products from its website. As result of Amazon removing the Debtor’s listings, the Debtor’s operations have come to a full and sudden halt. This unexpected cessation in Debtor’s operations

¹ This document may be found on the docket of *In re Blueworks Corporation*, Bankruptcy Court for the Western District of North Carolina, Case No. 24-30494.

has resulted in irreparable harm to the Debtor's business and reorganization efforts in the Bankruptcy Court. The Debtor has filed² an Emergency Motion for Clarification contemporaneously herewith, seeking the Court's input on the proper interpretation of Contempt Order to prevent further and irreversible damage resulting from an incorrect interpretation thereof and to provide all the parties, including the Bankruptcy Court, certainty as to the Debtor's ability to operate.

ARGUMENT

The Debtor seeks an expedited briefing schedule due to the disastrous impact of Hayward's new interpretation of the Contempt Order. Without the ability to sell its inventory, the Debtor's chances for a successful reorganization in the Bankruptcy Court are extinguished. As such, unless and until the Debtor's listings are reinstated on Amazon, the Debtor has been thrust into a forced liquidation without advance notice to any party to the Bankruptcy Case and without any party seeking such relief before the Bankruptcy Court.

With pool season now underway, the Debtor loses business each day its listings are removed from Amazon. The Debtor's inability to sell may also affect its ratings, customer reviews, and priority in searches for its products or similar products. To minimize the amount of time the Debtor's operations are improperly suspended, and irreparable harm accrues, the Debtor requests an expedited briefing schedule on the Motion for Clarification to obtain the Court's guidance.

² Due to the drastic, case- and enterprise-ending affect of Hayward's actions, the Debtor first sought emergency temporary relief before the Bankruptcy Court for the Western District of North Carolina (the "Bankruptcy Court"). Its efforts in the Bankruptcy Court are more fully described in its memorandum in support of its clarification motion. Following the Bankruptcy Court's denial of the relief sought, the Debtor awaited entry of the Bankruptcy Court's formal order and sought to balance the care required for a bankruptcy case dispositive motion with the urgency required to file the various pleadings.

CONCLUSION

For the foregoing reasons, the Debtor respectfully submits that the Court should grant its motion and expedite briefing on the Motion for Clarification and order the following proposed schedule:

- **Friday, May 25, 2025**—Deadline for Hayward to respond to Debtor's Instant Motion for an expedited briefing schedule (The Debtor will forego an opportunity to reply to Hayward's response);
- **Tuesday, April 29, 2025**—Deadline for Hayward to respond to the Motion to Clarify;
- **Wednesday, April 30, 2025**—Deadline for the Debtor to respond to Hayward's opposition to the Motion to Clarify.

This the 23rd day of April, 2025.

RAYBURN COOPER & DURHAM, P.A.

By: /s/ Matthew L. Tomsic
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ARTIFICIAL INTELLIGENCE (AI) CERTIFICATION

I hereby certify the following:

1. No artificial intelligence was employed in doing the research for the preparation of this document, with the exception of such artificial intelligence embedded in the standard on-line legal research sources Westlaw, Lexis, FastCase, and Bloomberg;
2. Every statement and every citation to an authority contained in this document has been checked by an attorney in this case and/or a paralegal working at his/her direction (or the party making the filing if acting pro se) as to the accuracy of the proposition for which it is offered, and the citation to authority provided.

This the 23rd day of April, 2025.

/s/ Matthew L. Tomsic
Matthew L. Tomsic

CERTIFICATE OF SERVICE

The undersigned certifies that on this day **MEMORANDUM OF LAW IN SUPPORT OF BLUEWORKS CORPORATION'S MOTION FOR EXPEDITED BRIEFING SCEDULE ON EMERGENCY MOTION FOR CLARIFICATION OF CONTEMPT ORDER [DE 588] ENTERED MARCH 19, 2025** was electronically filed via the District Court's CM/ECF system, which will send notification of such filing to all counsel of record.

This the 23rd day of April, 2025.

By: */s/ Matthew L. Tomsic*
Matthew L. Tomsic